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Dear Claire,

PPM customers and switching - response to consultation letter of 30 May

Which? welcomes the opportunity to comment on the issues raised in your letter. Which? is a campaigning charitable organisation that aims to make the consumer as strong as the organisations they deal with in their daily lives, it is wholly funded through subscriptions to its magazine and income from its webservices, including an online price comparison and switching website (see www.which.co.uk).

Which? is concerned that consumers are not achieving best value from switching electricity or gas supplier. Consumers that may be more vulnerable to higher prices and face more significant difficulties switching, such as PPM customers, are even less likely to achieve the savings possible.¹ Which? cannot comment on the specific remedies proposed but, if regulation is considered necessary, draws Ofgem's attention to recent work by the OFT on information remedies in consumer markets.

We have responded to the points raised in your consultation in turn below and would be happy to discuss this in more detail.

Ofgem analysis

Which? largely supports Ofgem's findings. Which? has found that in a large proportion of cases (up to 20 per cent) consumers may switch to a worse price deal

¹ Less than 0.1 per cent of consumers that switched with Which? were on PPM tariffs. Which?'s anecdotal experience in operating a price-comparison site indicates that PPM customers face a particularly difficult time switching due to a range of reasons including high up-front costs and limited choice of alternative supplier.

and a higher proportion still fail to realise the full benefits from switching.² This analysis included only those consumers making decisions based on price (therefore is not distorted by quality choices). The main reason for this erroneous switching appeared to be genuine consumer confusion or uncertainty.

However, selling practices may also be significant for vulnerable consumers. The OFT's market study into doorstep selling³ noted that consumers in doorstep sales may be unaware of their rights and prone to pressurised selling tactics. We note the finding that 70 per cent of supplier offers for PPM customers are made via doorstep or phone sales.

Compliance with existing legislation

Which? has only limited evidence on which to draw, as outlined above. We ask that Ofgem actively considers the transparency and usefulness of information included on customers' bills - is it fit for purpose? For example: how clearly is the customer's total energy consumption and pattern (over time and within day) of consumption set out; is the customer's tariff type obvious; are prices clearly and sensibly set out; is the total amount paid or owed readily apparent?

Options for possible new licence obligations

Which? has considerable experience at dealing with markets, notably in financial services, where consumers face an array of complex, difficult and potentially misleading information. We recognise that consumers' have a role to play in achieving effective market outcomes. However, in the face of complex tariffs and asymmetry of information this can be difficult; consumers are unlikely to purposefully make 'sub-optimal choices'. This is especially the case where consumers may have 'bounded' rationality to process complex information that firms may exploit. This can have important implications for the nature of any proposed remedies.

In general Which? considers that regulation represents a failure of the market process. However, in some circumstances regulation may well be necessary and, ideally, would codify best practice within an industry and reward firms that meet those standards.

² Which? commissioned research by the Centre of Competition Policy (CCP), published in the Consumer Policy Review (Jan/Feb 2007), that found up to a third of switching resulted in consumers moving to a higher tariff. A more detailed and updated analysis can be found at <http://www.ccp.uea.ac.uk/publicfiles/workingpapers/CCP07-6.pdf>.

³ *Doorstep Selling, A report on the market study*, May 2004, OFT 716.

At this stage, Which? cannot comment on the suitability of the specific remedies that Ofgem proposes. However, we refer you to recent work on the design of information remedies published by the OFT that has explicitly considered problems facing consumers at the point of sale and in tackling searching and switching costs.⁴ In particular, where product differentiation is spurious,⁵ standardised pricing structures may help impart key information necessary to make meaningful comparisons. Any remedies to improve the information, and ability of consumers to meaningfully respond to such information, should not necessarily be limited to certain payment types - consumers may move between payment types over time.

I would be happy to discuss any of the points raised in more detail.

Yours sincerely

John D Holmes
Principal Economist.

⁴ *Assessing the effectiveness of potential remedies in consumer markets*, April 2008, OFT994.

⁵ Which? notes the wide variation in energy tariffs offered to consumers for what is, essentially, an homogenous product and which, moreover, is an ancillary purchase to support primary consumption of electrical goods or day to day domestic life (cooking, heating etc.).